

File by Fax

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10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 vs.

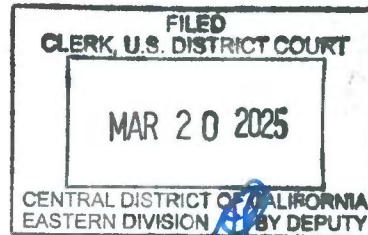
16 JASON EDWARD THOMAS
CARDIFF

17 Defendant

18 And

19 LILIA MURPHY and BRIAN
KENNEDY

20 Sureties
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Case No. 5:23-CR-00021-JGB

SURETIES' LILIA MURPHY AND
BRIAN KENNEDY'S NOTICE OF
MOTION AND MOTION TO SET
ASIDE OR MODIFY JUDGMENT

Hearing Date: April 21, 2025

Courtroom: 1

Time: 2:00 p.m.

1
2 **NOTICE OF MOTION**

3 PLEASE TAKE NOTICE that on April 21, 2025, at 2:00 pm., or as soon
4 thereafter as the matter may be heard, in the courtroom of the Honorable Jesus Bernal,
5 located at the United States District Court, Central District of California, Sureties
6 Lilia Murphy and Brian Murphy will move this Court, pursuant to Federal Rule of
7 Criminal Procedure 49(f)(2), to set aside or modify the Judgment For Plaintiff United
8 States On Bail Bond Forfeiture With Respect To Defendant Jason Edward Thomas
9 Cardiff And Sureties Lilia Murphy And Brian Kennedy.

10 Pursuant to Local Rule 7-3, Defendant's counsel provided timely written notice
11 of this motion to counsel for Plaintiff, Valerie Makarewicz and Manu Sebastian. The
12 parties conferred on March 18, 2025, and were unable to resolve the matters raised
13 herein.

14 This Motion is based upon this Notice, the concurrently filed Memorandum of
15 Points and Authorities, the accompanying Declarations and Exhibits, the files and
16 records in this matter, and such additional evidence and argument as may be
17 presented at or before the hearing.

18 Respectfully submitted,
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Rules

Fed. R. Crim. P. 46(f)(2)	<i>passim.</i>
Local Rule 7-18	2

1 **MEMORANDUM IN SUPPORT OF LILIA MURPHY AND BRIAN**
2 **KENNEDY'S MOTION TO SET ASIDE ORDER FORFEITING BAIL**

3 Pursuant to Rule 46(f)(2), Lilia Murphy and Brian Kennedy (hereinafter
4 "Sureties"), by and through their undersigned counsel, respectfully file this motion to
5 set aside the judgment entered by this Court on March 12, 2025. Dkt. 215. The
6 Judgment, in pertinent part, entered judgment in the amount of \$530,000 against
7 Sureties Lilia Murphy in the amounts of \$500,000 Murphy and \$30,000 against Brian
8 Kennedy.

9 For the reasons set forth below, the Sureties respectfully submit that the judgment
10 ordering forfeiture of bail should be set aside in whole or in part because "it appears
11 that justice does not require bail forfeiture." F.R.Crim.P. 46(f)(2).

12 **I. Background Facts**

13 The facts of this case are unique. Mr. Cardiff was placed under arrest when he
14 traveled from Ireland to the United States to attend his father's funeral. Bond was
15 granted at \$530,000. Ms. Lilia Murphy agreed to pledge her home to secure \$500,000
16 of the bond as part of an appearance bond and Mr. Kennedy agreed to a \$30,000
17 appearance bond. The Court also provided for Stephen Cochell to have custody of
18 Mr. Cardiff and approved Mr. Cardiff to live with Ms. Murphy and Stephen Cochell.¹
19 Dkt. 21. The bond also set a curfew from 8:00 a.m. to 8:00 p.m. daily and to wear an
20 electronic monitoring device. Id.

21 The Court granted Mr. Cardiff leave to travel to Dublin after his wife suffered a
22 heart attack. Dkt. 87 He stayed ten days and complied fully with the Court's order.
23 On September 4, 2024, the Court granted Mr. Cardiff leave to visit Ireland to provide
24 support for his wife and eleven year old daughter. Dkt. 103, 105. Mr. Cardiff's request
25

26 _____
27 ¹ Ms. Murphy later married Mr. Cochell. Mr. Cochell subsequently entered an
28 appearance as counsel for Mr. Cardiff. For purposes of this case, counsel will refer to
his wife as Ms. Murphy.

1 indicated that he was going to visit a pulmonologist. Dkt. 103-1 at 5. On October 29,
2 2024, the Court entered an Order allowing Mr Cardiff fourteen days travel to assist his
3 wife and attend a medical appointment. Dkt. 122, 122-1. On November 15, 2025, Mr.
4 Cardiff requested an extension of his travel because of unanticipated health problems
5 and had scheduled an appointment with a cardiologist. Dkt. 125 at 2. He advised the
6 Court that Dr. M.S. referred him to Blackrock Medical Centre finding him “medically
7 unfit to fly until further notice. *Id.* Pretrial Services did not oppose the request. Dkt.
8 125 at 3. On December 13, 2024, Defendant asked for an additional extension of travel
9 for medical reasons. Dkt. 148. The Court granted this extension but indicated that,
10 absent extenuating circumstances, the Court was not inclined to grant future requests
11 to travel or extend travel. Dkt. 151.

12 From December 6, 2023 until his last departure to Ireland, Mr. Cardiff was living
13 with Ms. Murphy and counsel complying fully with the Bond with electronic
14 monitoring, curfew and reporting to Pretrial Services. At that point, Mr. Cardiff had
15 periodic discussions with Ms. Murphy updating her on his health condition. While
16 living at Ms. Murphy’s home, Ms. Murphy became aware that Mr. Cardiff had certain
17 symptoms and was concerned about Mr. Cardiff’s health. **Exhibit A**, Murphy Dec. ¶¶s
18 12-14. In or about November, 2024, Mr. Cardiff disclosed to Ms. Murphy that he had
19 experienced additional and more severe medical problems that needed treatment. *Id.*
20 at ¶ 15, 17.

21 On January 14, 2025, Defendant filed his Motion for an Order Extending
22 International Travel, or in the Alternative to Modify the Bond. Mr. Cardiff advised the
23 Court, and provided the Court with medical evidence that he was medically unfit to fly
24 back to the United States. Dkt. 162. Defendant’s primary physician, Dr. M.S.
25 recommended a three-to-four-month treatment plan to assure that Mr. Cardiff could fly
26 safely without risking even more serious health consequences. Dkt. 171 at 2. Mr.
27 Cardiff submitted Dr. M.S.’ report under seal and asked the Court to allow him to stay
28 the additional time to protect his health. Dkt 149, 175.

1 The Court deemed the evidence submitted by Dr. M.S. to be insufficient as her
2 report indicated that Mr. Cardiff's symptoms "could" pose a risk of serious injury and
3 that reduced cabin pressure and lower oxygen availability at altitude would greatly
4 increase the potential for ...complications. See Dkt. 171 at 4. On reconsideration,
5 Defendant submitted further evidence from Dr. M.S. However, the Court held that the
6 evidence was rejected because the email submission was not "new" evidence that could
7 not have been submitted under L.R. 7-18. Dkt. 171 at 2.

8 Both Ms. Murphy and Mr. Kennedy were aware that Mr. Cardiff became ill while
9 in Ireland and was granted extensions of time to seek evaluation medical treatment for
10 his medical condition. After the Court's ruling on reconsideration, the Sureties asked
11 Mr. Cardiff why he could not return but were told that he wanted to return but was
12 medically unfit to travel until further treatment was obtained to avoid risk of additional
13 injury or permanent harm to his physical health if he traveled. **Exhibit A**, Declaration
14 of Lilia Murphy ¶¶ 16, 19 (hereafter "Murphy Dec."); **Exhibit B**, Declaration of
15 Brian Kennedy ¶ 7 (hereafter "Kennedy Dec."). As set out below, the Bondholders
16 respectfully submit that they should not be punished for Mr. Cardiff's decision not to
17 return on January 19, 2025.

18 **II. Rule 46(f) Does Not Require Forfeiture of Property or Funds If Justice**
19 **Does Not Require Forfeiture.**

20 It is well established that the purpose of bail bonds is to make sure defendants
21 show up for court, not to punish them or their families if they fail to appear. *United*
22 *States v. Vaccarro*, 51 F.3d 189, 192 (9th Cir. 1988); *United States v Bass*, 573 F.2d 258,
23 260 (5th Cir 1978) ("The purpose of a bail bond is not punitive; it is to secure the presence
24 of the defendant"). As set out below, this court has the discretion to set aside a forfeiture
25 "in whole or in part" "if it otherwise appears that justice does not require the forfeiture."

26 In *United States v. Nguyen*, 279 F.3d 1112, 1115 (9th Cir. 2002), the Court noted
27 that "The law on bail forfeiture is neither complex nor voluminous." F.R. Crim. P. 46
28 provides that if there is a breach of a condition of a bond, the district court shall declare

1 a forfeiture of the bail.” However, Rule 46 (e)(2) and (4) also provides that a district
2 court:

3 (2) ...may direct that a forfeiture be set aside in whole or in part,
4 upon such conditions as the court may impose, if a person
5 released upon execution of an appearance bond with a surety is
6 subsequently surrendered by the surety into custody or if *it*
otherwise appears that justice does not require the forfeiture....
[and]

7 (4) ...may remit it in whole or in part under the [same]
8 conditions....

Id. (emphasis supplied)

9 The *Nguyen* court set out six non-exclusive factors that may be considered in
10 deciding whether to set aside or remit forfeiture of the bond. These factors include:
11 (1)The defendant’s willfulness in breaching a release condition; (2) the sureties’
12 participation in apprehending the defendant; (3) the cost, inconvenience, and prejudice
13 suffered by the government; (4) mitigating factors; (5) whether the surety is a
14 professional or a member of the family or friend; and (6) the appropriateness of the
15 bond amount.

16 In *Nguyen*, while the Court set out non-exclusive factors that might be considered
17 in evaluating whether Rule 46(f)(2) did not address the burden of proof to be applied
18 where Rule 46(f)(2) is invoked. Rule 46(f)(2) specifically states: “if it appears that
19 justice does not require the forfeiture” qualifies the remainder of the clause “justice
20 does not require the forfeiture....” The term “appears” is significant because it sets out
21 a lower standard of proof, suggesting that the decision is based on what *appears* to be
22 just, rather than requiring definitive proof that justice does not require the forfeiture.
23 The *Nguyen* court focused on whether the forfeiture should be set aside based on the
24 facts at hand, but it did not address whether the “appears” language required the court
25 to consider more leniently whether “justice did not require forfeiture.” Indeed, the plain
26 language “appears” to indicate proof that seems to be true, reasonable or plausible and
27 does not require definitive proof. In cases involving statutory construction, the Court
28

1 must start with the plain language of the words used as the legislative purpose is
2 expressed by the ordinary meaning of the words expressed. *United States v. Lusby*, 972
3 F.3d 1032, 1041-1042 (9th Cir 2020) citing *Am. Tobacco Co. v. Patterson*. 456 U.S.
4 63, 68 (1982).

5 Thus, Rule 46(f)(2)'s inclusion of "appears" suggests that this Court does not
6 need to be convinced to a high degree of certainty that forfeiture would be unjust, only
7 that it appears, based on the circumstances, that forfeiture might not be warranted. This
8 means that the standard for granting a setting aside of bail forfeiture is arguably a more
9 flexible, discretionary standard.

10 In *United States v. Vickers*, 144 F. Supp. 3d 1146, 1150 (E.D. Cal.2015), the
11 Court noted that the purpose of the bail bond is not punitive. Rather a bond is to ensure
12 that the accused will reappear at a later time. *Id.* citing *Vaccaro*, 51 F.3d at 192. The
13 *Vickers* court emphasized that the court must ensure that its decision remains free from
14 frustration or vindictiveness. *Id.* citing *United States v. Parr*, 594 F.2d 440, 444 (5th Cir.
15 1979).

16 **A. Defendant's Willfulness in Breaching a Release Condition**

17 In *Nguyen*, defendant was arrested at work despite consistent claims that he could
18 not surrender himself because he was at home recuperating from surgery. *Id.* at 1116.
19 Similarly, in *United States v. Abernathy*, 757 F.2d 1012, 1015 (9th Circuit), the Court
20 found conduct to be willful where defendant fled nearly 1500 miles using aliases.

21 In stark contrast, Defendant was granted a court order allowing him to travel to
22 Ireland and was granted extensions to seek medical treatment. While the Court denied
23 further extensions, Defendant was advised by his doctors that he was medically unfit to
24 travel and that he would suffer greater injury if he returned to the United States. Dr.
25 M.S. provided a 3-4 month treatment plan. Dkt. 175. Defendant recognized that the
26 Court ordered his return but, at the time, concluded that if he returned without sufficient
27 treatment, he would potentially suffer greater health consequences resulting in
28

1 disability and lose his ability to support his family. Dkt 178, Defendant's Status
2 Report. Defendant fully intends to return to the United States. **Exhibit C**, Declaration
3 of Jason Cardiff ¶ 4. Dkt. 178 at 2.

4 The Court should not proceed with forfeiture of property or assets from innocent
5 third parties unless or until it becomes clear that Defendant does not intend to return to
6 the United States.

7 **B. The Sureties' Participation Apprehending Defendant.**

8 While Ms. Murphy and Mr. Kennedy are not in a position to physically
9 apprehend Defendant in Ireland. The evidence shows:

- 10 1. Both Ms. Murphy and Mr. Kennedy, have asked the defendant to obey the
11 order and return to the United States. Indeed, Ms. Murphy has asked Mr.
12 Cardiff, on numerous occasions, to return to the United States as her home
13 was at risk. **Exhibit A**, Murphy Dec. ¶ 19, **Exhibit B**, Kennedy Dec. ¶ 7.
- 14 2. Both were essentially told that Defendant wanted to return to the United
15 States but could not risk the health consequences. **Exhibit A**, Murphy Dec.
16 ¶ 19, **Exhibit B**, Kennedy Dec. ¶ 7. This factor favors the Sureties.
- 17 3. Neither Ms. Murphy are doctors or medical professionals and are not in a
18 second guess Mr. Cardiff's explanations or the recommendations of his
19 doctors.

19 **C. The Cost, Inconvenience, and Prejudice Suffered By The Government**

20 At this point, the Government has sustained limited cost or prejudice from
21 Defendant's absence on January 19, 2025. The cost of litigating pre-trial motions and
22 trial is a cost that would have been incurred in any event. Moreover, there is no
23 evidence that the Defendant intends to do anything but get treatment in Ireland and
24 return. Indeed, on January 14, 2025, Irish authorities arrested Mr. Cardiff at his home.
25 Dkt. 201-1 ¶ 3. Defendant states he intends to return to the United States after his
26 doctors release him to travel. Defendant is still reporting to Pretrial Services and will
27 continue to do so upon return. This factor potentially favors the Government.

28 Sureties recognize that there is authority supporting the idea that the bond

1 amount may be treated as “liquidated damages”, but unlike contracts where parties
2 negotiate liquidated damages provisions, the Court dictates the amount of the bond.
3 Sureties respectfully submit that that notion that a judicially imposed bond constitutes
4 “liquidated” damages is a *fiction* unsupported by Rule 46.² The *Nguyen* factors clearly
5 identify the “cost” and “inconvenience” as a factor and does not hold that the amount
6 should invariably result in forfeiture of the entire bond regardless of the actual cost to
7 the Government. Mechanistic application of this factor violates due process, which
8 requires courts to apply rules reasonably in light of all the facts and circumstances.

9 Moreover, it is contrary to the plain language of Rule 49(f)(2)—that the Court
10 may set aside in whole or in part if it appears that justice does not require bail forfeiture
11 of the entire amount of the bond. Following the “liquidated damages” theory to its
12 logical conclusion, virtually no bond can be “set aside in whole or in part....” The
13 Court should not apply the bond as though it were “liquidated damages” as that would
14 render the express language of Rule 46(f)(2) meaningless. Again, the Court must be
15 guided by plain language of the rule and not a fiction that appears unrooted in the
16 language of the rule itself. *Lusby*, at 1042-1043.

17 **D. Mitigating Factors- Whether the Surety Was Responsible for the**
18 **Breach of the Release Conditions**

19 In *Nguyen*, the Court considered the Sureties’ involvement in supporting or
20

21 ² The courts’ use of liquidated damages in bond cases bears little resemblance to the
22 actual application of liquidated damages in real life contract cases. It is axiomatic that
23 the amount fixed (negotiated) as liquidated damages must be a reasonable forecast of
24 just compensation for the harm caused by the breach. *Idaho Plumbers and Pipefitters*
25 *Health & Welfare Fund cv. United Mechanical Contractors, Inc.* 875 F.2d 212, 217-
26 218 (9th Cir.1989). The liquidated sum should represent a good faith effort by the parties
27 to appraise the benefit of the bargain. *Pinon v. Bank of Am., NA (in re Late Fee & Over-*
28 *Limit Fee Litig.*, 741 F.3d 1022, 1026 (9th Cir. 2014) . Finally, if liquidated damages
are disproportionate to the actual damages sustained, they are stricken and
unenforceable. *Zidell, Inc. v. Pacific Northern Marine Corp.*, 744 F.Supp. 982, 987
(D. Ore. 1990).

1 aiding and abetting violation of Nguyen's bond conditions as a key factor. This
2 factor should be a decisive if not controlling factor under Rule 46(f).

3 The Court held a hearing on January 30, 2025 and then filed this motion seeking
4 forfeiture of property and funds. Ms. Murphy's home is worth more than \$500,000
5 and was purchased by her and her late husband, Leo Murphy, before he tragically died
6 in 2022. **Exhibit A**, Murphy Dec. ¶ 5. Ms. Murphy respects and obeys the law and
7 has been a law-abiding citizen her entire life. *Id.* at ¶ 4. Ms. Murphy felt compelled to
8 help. Because he had electronic monitoring, curfew conditions and was under
9 supervision of Pretrial Services supervision, Ms. Murphy was confident that she and
10 Steve Cochell would have control over the situation and be able to oversee Mr.
11 Cardiff's bond conditions. *Id.* at ¶ 7.

12 Ms. Murphy took Mr. Cardiff into her home and was aware that he complied
13 with the curfew and had a decent living situation. **Exhibit A** at ¶¶ 8-9. Over the course
14 of the last fourteen months, Ms. Murphy observed that Mr. Cardiff went on business
15 trips and returned without incident. *Id.* at 9.

16 In January, 2025, before the January 19, 2025 deadline and after the January 19,
17 2025 deadline, Ms. Murphy told Mr. Cardiff that he needed to return to Houston and
18 reminding him that her house would be subject to forfeiture if he did not return. **Exhibit**
19 **A** at ¶ 17, 20. On those occasions, Mr. Cardiff made it clear that he wanted to return
20 but could not return to Houston unless the doctors in Ireland said he was fit to travel
21 and further stated that he would suffer greater and potentially irreversible damage to
22 his health if he flew before the doctors could treat him. *Id.* at ¶ 19.

23 Mr. Kennedy is a member of Redwood Scientific Technologies, Inc's Board of
24 Directors and has had frequent contact with Mr. Cardiff in that capacity. Mr. Kennedy
25 learned of Mr. Cardiff's health condition and urged him to return to the United States
26 to comply with the January 19, 2025 deadline. **Exhibit B**, Kennedy Declaration ¶ 7.
27 However, Mr. Cardiff told him that he would seriously jeopardize his health and
28 believed that he needed to follow his doctors' orders until he was found to be fit to

1 travel. Id. This factor favors the Sureties.

2 **E. Whether The Surety Is A Professional Or A Member Of The Family Or**
3 **Friend;**

4 If the surety is a defendant's family member or friend, rather than a professional
5 bondsman, this factor weighs in favor of setting aside the bond forfeiture." *United*
6 *States v Gifford*, 423 F. Supp. 819, (C.D. Cal. 2019); *United States v. Martinez*, 2013
7 U.S. Dist. LEXIS 161260, 2013 WL 6002441, at *7 (S.D. Cal. Nov. 12, 2013). *See*
8 *also United States v. Castaldo*, 667 F.2d 20, 21 (9th Cir. 1981) (explaining that
9 professional bondsmen are "experienced at bonding criminal defendants" and more
10 likely to be "aware of the risks of executing and filing a bond on [the defendant's]
11 behalf."). Ms. Murphy was a friend and not a professional bondsman. As such, this
12 factor favors setting aside the bond forfeiture.

13 **F. The Appropriateness of The Bond Amount. The Court Should Defer or**
14 **Stay Any Further Action Until Resolution of Pending Pretrial Motions.**

15 This factor addresses whether the bond amount was reasonable at the time of its
16 issuance.³ The reasonableness of the bond should also be evaluated in light of motions
17 that seek dismissal of part or all of the indictment based on Supreme Court precedent.
18 In sum, the bond should have been lower where, as here, the indictment was either
19 vague or substantively defective. Pending before the Court are four motions that impact
20
21

22 ³ At the time of the initial bond hearing, the Government counsel argued that Mr.
23 Cardiff fled to Ireland to avoid prosecution notwithstanding the fact that Mr. Cardiff
24 made no secret of his intention to move to Ireland and, in compliance with the FTC
25 order, gave notice to the FTC that he was moving to Dublin and later updated his
26 address. Counsel obtained a copy of the hearing transcript, which showed that
27 Magistrate Mircheff closely questioned government counsel and ultimately counsel
28 conceded that Mr. Cardiff did not move to Ireland to avoid prosecution. Dkt. 205, at 4-
6-8 ("He was *not* aware. This was a sealed indictment." Id. at 8. (emphasis supplied)
Such arguments detract from credibility of Government counsel.

1 a determination of whether the bond was reasonable⁴: (a) Defendant's Motion to
2 Dismiss Count Two of the Indictment (Dubin) Dkt 106; (b) Motion to Suppress
3 Evidence (Dkt. 115); (c) Motion to Dismiss Counts 3 and 4 (Aguilar) Dkt. 134; and (d)
4 Motion to Dismiss Based on Double Jeopardy (Dkt. 135). Each of these motions
5 present substantial legal and constitutional challenges to the prosecution of this case.
6 If any of these motions are granted, the reasonableness of the original bond would be
7 subject to substantial modification or the issue rendered moot.

8 In the context of this case, due process requires that the Court rule on these
9 motions *before* determining bond forfeiture. *See United States v \$8850 in United States*
10 *Currency*, 461 U.S. 555, 564 (1983) (Due process is flexible regarding the right to be
11 heard at a meaningful time recognizing that the timing of a proceeding may impair and
12 unfairly prejudice a party's ability to defend the propriety of a forfeiture).

13 At the Government's request, the Court vacated the trial date. The Government
14 will not suffer any undue prejudice or harm by delaying forfeiture enforcement while
15 the Court determines key issues going to the validity of the indictment. Enforcing
16 forfeiture prior to ruling on the pretrial motions would impose an irreparable financial
17 burden on the sureties; for example, depriving Ms. Murphy of her home, which cannot
18 be replaced if the bond was later found to have been forfeited improperly.

19 **G. The Facts Are Not Crystallized.**

20 As a practical matter, the facts are not set in stone and may change. While the
21 Government may take some satisfaction if they have obtained a judgment forfeiting
22 Ms. Murphy's property and Mr. Kennedy's funds, Mr. Cardiff may be released to travel
23 by his physicians as they treat his condition. At that point, the Court and the sureties
24 will have expended a lot of time and resources on this issue and the Court will have to
25 re-evaluate its rulings on the bond.

26
27 ⁴ Sureties recognize that the Court indicated that it would issue decisions on the pretrial
28 motions at the January 30, 2025 hearing. Dkt. 198.

1 **III. Conclusion**

2 Rule 46(f) provides that the Court may set aside in whole or in part a bail
3 forfeiture if “it otherwise *appears* that justice does not require bail forfeiture.”
4 (emphasis supplied).

5 In this case, the evidence shows that neither Ms. Murphy nor Mr. Kennedy have
6 first-hand knowledge of Mr. Cardiff’s medical condition and are not in a position to
7 apprehend him or to even question the recommendations of his doctors. Both have
8 asked Mr. Cardiff to return to Houston and were told by Mr. Cardiff that he wanted to
9 return but his doctors found him medically unfit to travel and would suffer additional
10 harm if he traveled before he completed treatment. Ms. Murphy, who has the most to
11 lose, has been consistently telling Mr. Cardiff that he has to return or her home is at
12 risk. The Government is well aware of Mr. Cardiff’s explanation for not appearing at
13 the January 30, 2025 hearing and that he intends to surrender as soon as possible,
14 presumably in the short term when his treatment is concluded. Dkt. 178.

15 Based on the *Nguyen* factors, it “appears that justice does not require the
16 forfeiture” of Ms. Murphy’s home and Mr. Kennedy’s funds. In that vein, Sureties
17 respectfully submit that the process should be deferred or stayed for several months
18 until Mr. Cardiff either surrenders himself or does not. At that time, the Court will have
19 more information and be in a better position to render a decision that is fair to the
20 Sureties.

21 WHEREFORE, Sureties request this Honorable Court grant an evidentiary
22 hearing and/or grant their Motion to Set Aside Judgment and to: (1) enter an order
23 setting aside or remitting the forfeiture; and (2) exonerating the sureties pursuant to
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1 Rule 46(g).

2 **Dated:** March 19, 2025

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4 **Respectfully submitted,**

5
6
7 By: /s/ Stephen R. Cochell
8 Stephen R. Cochell

9 Attorney for Defendant
10 JASON EDWARD THOMAS CARDIFF
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SERVICE LIST

I HEREBY DECLARE THAT THE FOLLOWING COUNSEL HAVE BEEN
SERVED WITH THIS DEFENDANT JASON CARDIFF'S NOTICE OF MOTION
AND MOTION TO SUPPRESS EVIDENCE THROUGH THE COURT'S ECF OF
NEXT GEN ELECTRONIC FILING SYSTEM:

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/s/ Stephen R. Cochell
Stephen R. Cochell

EXHIBIT A

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14 Attorneys for Defendant
15 Jason Edward Thomas Cardiff

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 UNITED STATES OF AMERICA,

Case No. 5:23-CR-00021-JGB

19 Plaintiff,

20 vs.

21 JASON EDWARD THOMAS
22 CARDIFF

23 And

24 LILIA MURPHY and BRIAN
25 KENNEDY

26 Sureties

27 **DECLARATION OF LILIA MURPHY COCHELL IN SUPPORT OF SURETIES'**
28 **MOTION TO SET ASIDE JUDGMENT**

I, Lilia Murphy Cochell, declare as follows:

1. I have personal knowledge of the facts set forth herein. If called as a

1 witness, I could and would competently testify to the matters stated
2 herein. I make this declaration in the Sureties Motion to Set Aside
3 Judgment, filed with this declaration.

- 4
- 5 2. I am married to Stephen Cochell, who represents Jason Cardiff in this
6 criminal case and who is also General Counsel for Redwood Scientific
7 Technologies, Inc. I have signed a waiver of conflict of interest to allow
8 my husband to represent me in the Government's request to forfeit bond
9 and to also represent Mr. Kennedy and Mr. Cardiff.
- 10 3. I am one of the bondholders who signed an affidavit of surety and
11 pledged my home as security if Jason Cardiff did not comply with his
12 bond conditions.
- 13 4. I have been a law-abiding citizen all my life working and always try to do
14 the right thing the right way. I have always been a private person and do
15 not disclose the details of my life to others.
- 16 5. As background, I was born in Mexico City in 1952 and grew up in San
17 Diego, California and completed high school. My family was poor and
18 had modest means. However, I worked very hard in the auto industry
19 and mortgage industry to improve my life style and better the lives of my
20 daughters. I also managed an optometry store. I was married to Dr.
21 Robert Giarratano for over thirty years. After our divorce, I married Dr.
22 Leo Murphy for ten years and managed his practice. In 2021, Leo and I
23 relocated to Texas. We purchased a home in Houston Texas. We helped
24 my grand son and daughter buy a home near our house. Leo passed away
25 in 2022 and it was a devastating blow but I had my daughter and
26 grandson near. A year after Leo's passing, my daughters and I were
27 stricken with another devastating tragedy when my only grandson (age
28

23) passed away in a freak accident.

6. When my grandson passed, my daughter could not live in Texas anymore and moved to Oregon to live with my other daughter. This left me in Texas without friends or family. I had been dating Steve Cochell a few months before my grandson died. Steve saved me from falling into deep depression and feeling suicidal. We moved in together.

7. I was living with Steve Cochell when I first met Mr. Cardiff. I understood that Mr. Cardiff was in detention and would remain in jail until his trial unless he made bail. Steve told me that the Court was potentially open to having Jason released to his custody to live with us and my home could be posted as security. I felt compelled to help. I also understood that Jason Cardiff would have an ankle bracelet that electronically monitored him and a 8:00 a.m. to 8:00 p.m. curfew and other conditions of release including regular contact with Pretrial Service. On that basis, I agreed to pledge my home. I was confident that my husband and I would have control over the situation and could oversee Mr. Cardiff's bond conditions.

8. Mr. Cardiff arrived in December 2023. He lived upstairs in my home, shared meals with us and was a good house guest. Mr. Cardiff cooked and helped maintain the house and trained my three dogs. He is smart, talented and friendly. I also found him very trustworthy and was reliable in what he said and did around me and Steve. Steve and I were married on May 11, 2024. Jason Cardiff attended the wedding.

9. Mr. Cardiff stayed at our home and complied with the 8 to 8 curfew. He occasionally went on business trips. He kept us informed of his schedule and checked in with me or Steve while he was out of town. I understood

1 that each of these trips were coordinated and approved by the Court and
2 Pretrial Services.

3 10. After he moved in, Mr. Cardiff was so grateful that I had helped bail him
4 out that he offered to give 900,000 shares of stock in Redwood. I told him
5 that it was unnecessary because I did not expect anything in return for
6 helping him. I thought it was kind of him, but I basically saw the shares
7 as monopoly money and still do.

8 11. In or about October, 2024, Mr. Cardiff applied for and was granted
9 permission by the Court to travel to Ireland for ten days after his wife
10 suffered a heart attack. He returned on the deadline set by the Court.

11 12. In or about November, 2023, Mr. Cardiff applied for and was granted
12 permission by the Court to travel back to Ireland to assist his wife and
13 daughter and to visit his pulmonologist.

14 13. As I got to know Mr. Cardiff, I came to know more about his health and I
15 found his health to be fragile. I believed that he was a potential candidate
16 for a heart attack given his medical condition and all the stress he
17 experienced over the years including chronic asthma. I noticed that Jason
18 was coughing daily. I observed that he had problems going up and down
19 the stairs and difficulty breathing. I witnessed on several occasions that
20 he had uncontrolled coughing fits. He asked me to look out for him
21 because he had prior episodes of uncontrollable coughing and passing
22 out.
23

24 14. Mr. Cardiff was an early riser. On several occasions when he was not up
25 early, I had my husband go upstairs to make sure he was alive.

26 15. Both of us had COVID in October, 2024, which seemed to increase
27 Jason's coughing fits. It took Jason longer to get over COVID and he
28

1 was having even more difficulty going up and down the stairs. Sometime
2 in November, 2024, after he tested negative for COVID, Jason applied to
3 go back to Ireland and planned to see his pulmonologist.

4 16. When he got to Ireland in November, Jason told me that he got COVID
5 again and told me that the second COVID illness was more difficult than
6 the COVID episode in October.

7 17. After he saw his doctor in Ireland, he told me about the visit and told me
8 about his medical problems. I asked "Are you coming back?" He replied
9 "Of course, I'm coming back. I would never do that to you. I would
10 never want to be a fugitive" He then asked if he could have the
11 downstairs bedroom when he came back. I believed and trusted him.

12 18. I understand that he made appointments with various doctors to get to the
13 root cause of this problem. I also understand that his General Practitioner
14 found that he was medically unfit to travel and submitted a treatment plan
15 to the Court. I understand that this plan was rejected by the Court and
16 that the Court ordered him to return on January 19, 2025.

17 19. I am not a doctor. All I know is that, before he left, Jason Cardiff's
18 symptoms needed to be evaluated and treated by a doctor. I have not
19 been in a position to observe Jason's current medical problems but the
20 symptoms he says he has are consistent with what I witnessed all along
21 while he was in Houston.

22 20. In January (before the January 19 deadline) and early February, I had
23 discussions with Jason about his status in Ireland. I told him that
24 although he had medical problems, he was putting my home at risk and
25 that he needed to return to Houston to cure that problem. Jason told me
26 that he wanted to return but that his doctors told him that he would suffer
27
28

1 even greater and irreversible damage to his health if he flew before they
2 could treat him.

3 21. For me, my home is my refuge and security. I am a "home-body" with
4 my husband and three dogs. I did sign the Affidavit of Surety and
5 understood that my house might be at risk if there was a violation of the
6 bond conditions. However, we did assure Jason's compliance with the
7 bond conditions while he was under our control and living at our house in
8 Houston. I do not think it would be fair to lose my home for actions
9 taken by Jason that are beyond my control and which I do not support.

10 22. This is a summary of events. I reserve the right to supplement my
11 testimony if called as a witness at hearing or trial.

12 I declare under penalty of perjury under the laws of the United States of
13 America that the foregoing is true and correct.

14 Executed on this 19th day of March 2025, at Houston, Texas.

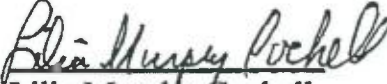
15
16 
17 Lilia Murphy Cochell
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28

EXHIBIT B

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14 Attorneys for Defendant
15 Jason Edward Thomas Cardiff

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 UNITED STATES OF AMERICA,
19 Plaintiff,

20 vs.

21 JASON EDWARD THOMAS
22 CARDIFF

23 And

24 LILIA MURPHY and BRIAN
KENNEDY

Sureties

Case No. 5:23-CR-00021-JGB

DECLARATION OF BRIAN KENNEDY IN SUPPORT MOTION TO SET ASIDE

JUDGMENT

I, Brian Kennedy, declare as follows:

1. I have personal knowledge of the facts set forth herein. If called as a

1 witness, I could and would competently testify to the matters stated
2 herein. I make this declaration in Support of the Sureties Motion to Set
Aside Judgment.

- 3
5 2. I have signed a waiver of conflict of interest to allow my Mr. Cochell to
6 represent me in the Government's request to forfeit bond and to also
7 represent Lilia Murphy Cochell and Mr. Cardiff.
8
9 3. I became a member of the Board of Directors in Redwood Scientific
10 Technologies, Inc. in 2023.
11
12 4. I am one of the bondholders who signed an affidavit of surety and
13 pledged \$30,000 as security if Jason Cardiff did not comply with his
14 bond conditions.
15 5. I have spent a good deal of time with Jason Cardiff over the years
16 During that time, I became aware that he had some medical issues but not
17 in any detail.
18 6. In or about September, 2024 I became aware that Jason was given
19 permission by the Court to travel to Ireland after his wife suffered a heart
20 attack. I understand that he later was granted permission to return to
21 Ireland to visit his wife and child and see a pulmonologist. I was
22 informed that Jason's health problems were serious and that his General
23 Practitioner certified that he was medically unfit to fly home to the
22 United States.
23
24 7. Sometime in January, 2025, Jason advised me that he had applied to the
25 Court for an extension of time to complete treatment in Ireland and that
26 the Court denied his motion and ordered him to return to the United
27 States. During a discussion with Jason about his health, I told Jason that
28 I thought that he should return to the United States. In substance, he told

1 me that he wanted to return to the United States but did not want to risk
2 that he would suffer additional and lasting harm by returning before
3 completing prescribed treatment.

4 8. I understand that there are some pretrial motions to dismiss the case that
5 may affect the bond issues before the Court. I would request that these
6 legal issues be resolved before determining the Government's motion to
7 forfeit bond.

8 9. This is a summary of events. I reserve the right to supplement my
9 testimony if called as a witness at hearing or trial.

10 I declare under penalty of perjury under the laws of the United States of
11 America that the foregoing is true and correct.

12 Executed on this 19th day of March 2025, at Upland, California.


13
14 
15 Brian Kennedy

EXHIBIT C

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15 JASON EDWARD THOMAS CARDIFF

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 UNITED STATES OF AMERICA,
19 Plaintiff,

20 vs.

21 JASON EDWARD THOMAS
22 CARDIFF

23 Defendant

Case No. 5:23-CR-00021-JGB

24 I, Jason Cardiff, declare as follows:

- 25 1. I am a party in the above entitled action. I have personal knowledge of the facts
26 set forth herein. If called as a witness, I could and would competently testify to
27 the matters stated herein. I make this declaration in support of the sureties
28 motion to set aside judgment.
2. This declaration is submitted under the protections of *Simmons v United States*,
390 U.S. 377 (1968) and the United states constitution. Pursuant to Simmons
and my constitutional rights, I would object to the use of this declaration for
any purpose beyond the court's adjudication of the sureties motion to set aside
judgment

- 1 3. With respect to this motion to set aside judgment, the statements made on my
2 behalf and my status report, Docket 178, are true and accurate. I do intend to
3 return to the United States as soon as possible. I am concerned that travel
4 before getting treated will result in lasting injury and additional complications
5 to my health.
- 6 4. I understand that one of the factors in determining whether bonds should be
7 forfeited is whether the bond was reasonable at the time of issuance. I request
8 that any decision on forfeiting bond be deferred till the court decides four (4)
9 pretrial motions that are currently pending before the court including: (a) the
10 Motion To Dismiss Count 2 based on the Supreme Court's Dubin decision; (b)
11 the Motion To Dismiss Counts 3 and 4 based on the Supreme Court's Aguilar
12 decision; (c) the Motion To Dismiss based on double jeopardy; and (d) the
13 Motion To Suppress Evidence. These motions essentially argue that the
14 Government was not justified in bringing the charges. Dismissal of any of the
15 charges should also result in reduction or elimination of liability on my bond.
- 16 5. This is a summary of events. I reserve the right to supplement my testimony if
17 called as a witness at hearing or trial

18 I declare under the penalties of perjury under the laws of the United States of
19 America that the foregoing is true and correct

20 Executed on this 19th day of March, 2025 at Dublin Ireland.

21 
Jason Cardiff